

drives a school van or monitors the students' behavior in a restaurant.

“§ 541.704 Use of manuals

“The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

“§ 541.705 Trainees

“The executive, administrative, professional, [outside sales] and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, [outside sales] or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, [outside sales] or computer employee.

“§ 541.706 Emergencies

“(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

“(b) An ‘emergency’ does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

“(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work:

“(1) [A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive.]<<Reserved.>>

“(2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work.

“(3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the [establishment]<<location>> and of the executive's department, the nature of the [industry]<<work performed by the employing office>>, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly.

“(4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

“§ 541.707 Occasional tasks

“Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are

considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

“§ 541.708 Combination exemptions

“Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, [outside sales] and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

“§ 541.709 Motion picture producing industry

“[‘The requirement that the employee be paid ‘on a salary basis’ does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$1,043 per week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C, or D of this part, and who is employed at a base rate of at least the applicable current minimum amount a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances:]

“[(a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least the minimum weekly amount if 6 days were worked; or]

“[(b) The employee is in a job category having the minimum weekly base rate and the daily base rate is at least one-sixth of such weekly base rate.]

“§ 541.709 <<Reserved.>>

“§ 541.710 [Employees of public agencies]<<Effect of certain deductions on exempt employee pay>>

“(a) An employee [of a public agency] who otherwise meets the salary basis requirements of §541.602 shall not be disqualified from exemption under §541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the [public agency] employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:

“(1) Permission for its use has not been sought or has been sought and denied;

“(2) Accrued leave has been exhausted; or

“(3) The employee chooses to use leave without pay.

“(b) Deductions from the pay of an employee [of a public agency] for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.”.

DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 2617

The SPEAKER pro tempore. Pursuant to House Resolution 1518, H. Con. Res. 124 is considered adopted.

The text of the concurrent resolution is as follows:

H. CON. RES. 124

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill H.R. 2617, the Clerk of the House of Representatives shall make the following corrections:

(1) Strike all after the enacting clause through page 3, line 19 (the first sections 1 and 2).

(2) Strike “Division C” and all that follows through the end.

PERFORMANCE ENHANCEMENT REFORM ACT

The SPEAKER pro tempore. Pursuant to House Resolution 1518, the Senate amendments to H.R. 2617 numbered 1, 2, 3, and 5 are considered as agreed to.

The Senate amendment number 4 to H.R. 2617 is considered as agreed to with an amendment consisting of the text of Rules Committee Print 117-73.

Senate amendments:

(1)On page 3, line 12, strike [Chief]

(2)On page 3, line 12, strike [Office] and insert: *Officer of each agency*

(3)On page 3, line 17, after “(equivalent)” insert: *of that agency*

(4)On page 3, line 19, after “(5)” insert: *for that agency*

(5)On page 4, line 1, strike [House] and insert: *Senate*

The text of the House amendment to Senate amendment No. 4 is as follows:

HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 2617

At the end of the matter inserted by the Senate, insert the following: “.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2023”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short Title.

Sec. 2. Table of Contents.

Sec. 3. References.

Sec. 4. Statement of Appropriations.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2023

DIVISION B—WAYS & MEANS

DIVISION C

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

SEC. 4. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2023.